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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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12 SANDRA STONE, } Case No. EDCV 15-1300-GJS
13 Plaintiff, }
14 v. } MEMORANDUM OPINION AND
15 CAROLYN W. COLVIN, Acting } ORDER
16 Commissioner of Social Security, }
17 Defendant. }
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19 **I. PROCEEDINGS**
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21 On July 1, 2015, Plaintiff Aurora Sandra Stone (“Plaintiff”) filed a
22 Complaint seeking review of a decision by Defendant, the Acting Commissioner of
23 Social Security (“Commissioner”), denying her application for Disability Insurance
24 Benefits (“DIB”). [Dkt. 1.] On November 12, 2015, the Commissioner filed an
25 Answer to the Complaint [Dkt. 14] and lodged the Administrative Record (“AR”)
26 [Dkt. 15]. On December 11, 2015, Plaintiff filed an Opening Brief in support of
27 her Complaint. [Dkt. 16 (“Pltf.’s Br.”).] On February 8, 2016, the Commissioner
28 filed a Memorandum in Support of her Answer. [Dkt. 19 (Def.’s Br.”).] Plaintiff

1 did not file a reply brief. The parties have consented to proceed before the
2 undersigned Magistrate Judge. [Dkt. 11, 12.] Thus, this matter is submitted and
3 ready for decision.

4 **II. BACKGROUND AND SUMMARY OF ADMINISTRATIVE** 5 **DECISIONS**

6 Plaintiff applied for DIB, alleging disability since October 7, 2010. [Dkt.
7 15, Administrative Record (“AR”) 23.] Plaintiff’s application was denied initially
8 and on reconsideration. [AR 21.] Administrative Law Judge (“ALJ”) James P.
9 Nguyen held a hearing on January 29, 2014, and issued an unfavorable decision on
10 February 28, 2014. [AR 21-32.]

11 The ALJ determined that Plaintiff suffered from the severe impairments of
12 hypertension, hypothyroidism, hyperlipidemia, fibromyalgia, history of polycystic
13 kidney and renal insufficiency, history of hypertensive kidney disease, chronic
14 kidney disease, stage 3, and history of cardiac arrhythmia/heart murmur. [AR 23.]
15 The ALJ also found, however, that none of these impairments, alone or in
16 combination, met or equaled a listing. [AR 25-26.] The ALJ found that Plaintiff
17 had the Residual Functional Capacity (“RFC”) to perform light work with the
18 following limitations:

19 [T]he claimant is limited to frequently climbing ramps
20 and never climbing ladders, ropes, or scaffolds. In
21 addition, the claimant is limited to frequently balancing,
22 stooping, kneeling, crouching, crawling, and using her
23 bilateral upper extremities for handling and fingering.
Moreover, the claimant should avoid working around
unprotected heights.

24 [AR 26.] With this RFC, based on the testimony of a Vocational Expert, the ALJ
25 found that Plaintiff was capable of performing her past relevant work as a survey
26 worker or security guard. [AR 31-32.] The Appeals Council denied Plaintiff’s
27 request for review. [AR 1-3.]
28

1 Plaintiff raises two claims of error here; first, that the ALJ improperly
 2 rejected the opinion of Dr. Ligon, a treating psychiatrist, and second, that the ALJ
 3 improperly found Plaintiff's subjective complaints to be less than completely
 4 credible. [Pltf.'s Br. at 1.] Plaintiff requests that the Court remand for the payment
 5 of benefits, or, in the alternative, for further proceedings. (*Id.* at 7.) The
 6 Commissioner asserts that the ALJ's weighing of the evidence was legally proper
 7 and fully supported by the record, and requests that the Court affirm the ALJ's
 8 decision. [Def.'s Br. at 2-10.] Because it makes logical sense to do so, the Court
 9 treats these issues in reverse order.

10 **III. STANDARD OF REVIEW**

11 Under 42 U.S.C. § 405(g), the Court reviews the Administration's decision
 12 to determine if: (1) the Administration's findings are supported by substantial
 13 evidence; and (2) the Administration used correct legal standards. *See Carmickle*
 14 *v. Commissioner*, 533 F.3d 1155, 1159 (9th Cir. 2008); *Hoopai v. Astrue*, 499 F.3d
 15 1071, 1074 (9th Cir. 2007). Substantial evidence is "such relevant evidence as a
 16 reasonable mind might accept as adequate to support a conclusion." *Richardson v.*
 17 *Perales*, 402 U.S. 389, 401, 91 S. Ct. 1420, 28 L.Ed.2d 842 (1971) (citation and
 18 quotations omitted); *see also Hoopai*, 499 F.3d at 1074. The "evidence must be
 19 more than a mere scintilla but not necessarily a preponderance." *Connett v.*
 20 *Barnhart*, 340 F.3d 871, 873 (9th Cir. 2003) (internal citation omitted).

22 **IV. DISCUSSION**

23 **A. The ALJ's Determination that Plaintiff Was Not Fully Credible is** 24 **Supported by At Least One Clear and Convincing Reason.**

25 "Where, as here, an ALJ concludes that a claimant is not malingering, and that
 26 she has provided objective medical evidence of an underlying impairment which
 27 might reasonably produce the pain or other symptoms alleged, the ALJ may 'reject
 28 the claimant's testimony about the severity of her symptoms only by offering

1 specific, clear and convincing reasons for doing so.” *Brown-Hunter v. Colvin*,
2 806 F.3d 487, 492-93 (9th Cir. 2015) (quoting *Lingenfelter v. Astrue*, 504 F.3d
3 1028, 1036 (9th Cir. 2007)). Even if “the ALJ provided one or more invalid
4 reasons for disbelieving a claimant’s testimony,” if he “also provided valid reasons
5 that were supported by the record,” the ALJ’s error “is harmless so long as there
6 remains substantial evidence supporting the ALJ’s decision and the error ‘does not
7 negate the validity of the ALJ’s ultimate conclusion.’” *Molina v. Astrue*, 674 F.3d
8 1104, 1115 (9th Cir. 2012) (quoting *Batson v. Comm’r of Soc. Sec. Admin.*, 359
9 F.3d 1190, 1195-97 (9th Cir. 2004)).

10 “The ALJ may consider many factors in weighing a claimant’s credibility,
11 including (1) ordinary techniques of credibility evaluation, such as the claimant’s
12 reputation for lying, prior inconsistent statements concerning the symptoms, and
13 other testimony by the claimant that appears less than candid; (2) unexplained or
14 inadequately explained failure to seek treatment or to follow a prescribed course of
15 treatment; and (3) the claimant’s daily activities.” *Tomasetti v. Astrue*, 533 F.3d
16 1035, 1039 (9th Cir. 2008) (internal citations and quotations omitted); *see also*
17 *Thomas v. Barnhart*, 278 F.3d 947, 958-59 (9th Cir. 2002) (explaining that
18 acceptable bases for credibility determination include (1) the claimant’s reputation
19 for truthfulness; (2) inconsistencies in the claimant’s testimony or between her
20 testimony and conduct; (3) claimant’s daily living activities; (4) claimant’s work
21 record; and (5) testimony from physicians or third parties concerning the nature,
22 severity, and effect of claimant’s condition).

24 Here the ALJ concluded that Plaintiff’s credibility was “weakened” for
25 several reasons. First, he found that “claimant ha[d] described daily activities that
26 are inconsistent with the claimant’s allegations of disabling symptoms and
27 limitations”; second, he noted that the claimant did not undergo the type of medical
28 treatment “one would expect for a totally disabled individual,” and that treatment

1 records showed a history of non-compliance with medication and medical advice;
2 and, finally, that the objective findings in the medical record “failed to provide
3 strong support for the claimant’s allegations of disabling symptoms and
4 limitations.” [AR 27 and internal citations.]

5 **1. Plaintiff’s Description of Daily Activities**

6 Plaintiff argues that the ALJ “overgeneralized” her testimony, because she
7 never said she was completely incapacitated, and her reported daily activities are
8 thus not inconsistent with her claimed limitations, *i.e.*, the highly restricted work
9 day that her treating physician said she would be capable of performing (3-4 hours
10 per day with breaks every half hour). (Pltf.’s Br. at 5.) But while Plaintiff did not
11 say she was completely incapacitated, she did claim **disabling** limitations, and the
12 ALJ’s finding of inconsistency between her reported daily activities and an
13 inability to perform even light work provides a clear and convincing reason to
14 discount her credibility.

15 Plaintiff testified at the hearing about her activities of daily living and,
16 further, there is information in the medical record where she reported activities of
17 daily living to medical service providers. Her hearing testimony can be
18 summarized as follows: she stated she could perform household chores and take
19 care of her disabled son, but with some limitations. For example, she testified that
20 she did not assist her disabled son full time, but that she was his “in home support
21 service provider” about 70 hours a month. She also said that certain of the
22 household chores she could perform were limited. She could do laundry and hang
23 it up, but not fold it. She didn’t vacuum. She testified that she could walk, drive
24 and prepare meals, although at the hearing, she said she only cooked about once a
25 week. Plaintiff also reported that she could do research on a computer.

1 Plaintiff's self-reports of her daily activities in her medical records are
 2 similar, and also do not support her claim of total disability. As one example, one
 3 consulting physician's notes report Plaintiff's level of functioning as follows:

4 Her history includes adequate self-care skills of dressing,
 5 bathing, eating, toileting, and safety precautions. She
 6 does household chores, runs errands, shopping, and
 7 cooking. . . . She manages her own money. Her method
 8 of transportation is by driving a car and she can go places
 by herself. She is thinking of taking piano lessons, going
 back to school and learning a second language.

9 [AR 301 (history report in psychiatric evaluation of Dr. Belin).] Notably, Dr.
 10 Belin's notes contain no mention of the limitations Plaintiff put on these activities
 11 when questioned by her attorney at the hearing. Nor did the Court find, or the
 12 parties cite to, more limited descriptions of her activities in any of the other
 13 medical provider evaluations.

14 Even where the evidence of a claimant's daily activities "may also admit of
 15 an interpretation more favorable to" the claimant, where "the ALJ's interpretation
 16 was rational," the Court must defer to the ALJ's interpretation. *Burch v. Barnhart*,
 17 400 F.3d 676, 680-81 (9th Cir. 2005). Here, the ALJ's finding that the extent of
 18 the limitations Plaintiff claimed was inconsistent with her daily activities as
 19 reported in her testimony was rational, provides a clear and convincing reason to
 20 give her testimony less weight, and is supported by substantial evidence of record.

21 **2. The Objective Medical Evidence**

22 While only one clear and convincing reason is necessary to support the
 23 ALJ's credibility finding, the Court notes that the ALJ's third reason—that the
 24 *objective* medical evidence does not support her allegations of disabling
 25 limitations—is also clear and convincing and supported by the evidence. While
 26 Plaintiff at times had uncontrolled blood pressure, at least one physician noted that
 27 she was "relatively asymptomatic" even though she had "not [been] compliant with
 28 medications" [AR 238], and there is no indication from any source, including her

1 treating physician, how this condition impacted her ability to sit or stand for long
2 periods of time or complete an eight hour work day.

3 There are additional reports that her posture, gait, grip strength, etc., were all
4 normal.¹ [AR 241, 242, 300-302, 306.] The Court could find no objective
5 evidence in the medical records—evidence consisting of observations and testing,
6 rather than opinions and conclusions—that supports she was unable to perform at
7 the light work level as further limited by the ALJ in the RFC he constructed after
8 his thorough review of her medical history. This is an additional reason that
9 supports the ALJ’s treatment of Plaintiff’s credibility.

10 **B. The ALJ Provided Specific and Legitimate Reasons for Assigning Dr.**
11 **Ligons’ Opinion Limited Weight.**

12 Plaintiff also contends that the ALJ erred by failing to articulate valid
13 reasons for rejecting the opinion of Plaintiff’s treating physician, Dr. Ligons.
14 Specifically at issue is Dr. Ligons’ conclusion that Plaintiff could only work 3-4
15 hours a day with breaks every 30 minutes. For the reasons stated below, the Court
16 affirms the decision of the Commissioner.

17 To reject the uncontradicted opinion of a treating physician, the ALJ must
18 provide clear and convincing reasons. *Lester v. Chater*, 81 F.3d 821, 830 (9th Cir.
19 1995). Where a treating physician’s opinion is contradicted by another doctor’s
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21 ¹ In addition, Plaintiff was repeatedly not compliant with medical
22 recommendations. [AR 238, 246, 301.] Plaintiff described herself as a “bad
23 patient” in one report and said “she does not believe in medications, but she prefers
24 meditation and talking to Jesus” in another. [AR 246, 301.] She went so far as to
25 check herself out of the hospital on one occasion against medical advice and
26 without permitting further testing and evaluation. [AR 246.] And although she
27 explains that she was concerned about the side effects of certain of her blood
28 pressure medications, she was counseled that this was not an issue, and in any
event, that control of her blood pressure was more important than the potential side
effects. [AR 28-29; 253.]

1 opinion, an ALJ may reject the opinion if he provides “specific and legitimate
2 reasons” that are supported by substantial evidence in the record. *Id.* at 830-31;
3 *Garrison v. Colvin*, 759 F.3d 995, 1012 (9th Cir. 2014); *Orn v. Astrue*, 495 F.3d
4 625, 632 (9th Cir. 2007). “The ALJ can meet this burden by setting out a detailed
5 and thorough summary of the facts and conflicting clinical evidence, stating his
6 interpretation thereof, and making findings.” *Magallanes v. Bowen*, 881 F.2d 747,
7 751 (9th Cir. 1989) (internal citations and quotations omitted).

8 Plaintiff does not clearly state which standard applies here, *i.e.*, whether she
9 contends that Dr. Ligon’s opinion was contradicted by another physician’s opinion
10 or not. But it is plain from the record that Dr. Ligon’s conclusions are contradicted
11 by some of the other medical source evidence, including the findings and opinion
12 of Dr. Alleyne.² Thus, the Court looks to see whether the ALJ provided specific
13 and legitimate reasons to treat Dr. Ligon’s opinion as he did.

14 The ALJ met his burden here with a detailed review of the medical evidence
15 [AR 27-31], which included, in shortened form and without limitation, the
16 following:

- 17 i. Claimant was diagnosed with hyperthyroidism and
18 hyperlipidemia, but there was no indication that she took any
19 medication for the latter. In addition, thyroid functioning tests
20 were within normal range.
- 21 ii. While claimant had a history of kidney disease, at the time of
22 the hearing she was not receiving treatment for it.
- 23 iii. Despite claimant’s hypertension, when she was evaluated in
24 October 2010 after reporting a racing feeling in her heart,
25 medical testing showed normal cardiac rhythm and no
26 abnormalities, and x-rays showed no acute disease.

26 ² The ALJ rejected the ultimate opinion of consulting physician Dr. Alleyne,
27 which stated that Plaintiff was capable of performing medium work, but relied on
28 the underlying objective findings. [AR 29-31.]

- 1 iv. Claimant was diagnosed with fibromyalgia and takes Tramadol
2 for pain. She was seen by medical personnel at various times
3 from October 2010 to December 2011. However, in October
4 2010, there was no limitation of function and plaintiff was not
5 in acute distress; in November 2010 and January 2011, no
6 musculoskeletal findings were noted; and in September 2011,
7 the claimant denied having back pain, myalgias, arthralgias, and
8 soft tissue swelling.
- 9 v. A full physical done in March 2012 noted the claimant had
10 difficulty performing a full squat and had a ten degree
11 limitation of lumbar flexion, but exhibited normal gait and
12 balance and did not require the use of an assistive device. She
13 had no abnormal vertebral or joint deformities, and had normal
14 range of motion in shoulders, elbows, wrists, hands, hips,
15 knees, and ankles.
- 16 vi. Claimant had sixty pounds of force, bilaterally, for hand
17 strength and normal muscle strength of the remaining
18 extremities without focal motor deficits.

19 With respect to Dr. Ligon's opinion that Plaintiff could only work three to
20 four hours in an eight hour day with breaks every thirty minutes (with even further
21 limitations, such as only rarely being able to handle, finger, or reach overhead, and
22 that she would be off task more than 25% of the time), the ALJ stated as follows:

23 This opinion is given no weight as it is inconsistent with
24 the medical records of evidence and the claimant's
25 reported activity level. The medical records revealed
26 although the claimant continued to report joint pain,
27 hardly any examination [sic] were completed.
28 Additionally, upon full examination, the, the claimant
 had normal muscle strength, equal grip strength, no
 tenderness and exhibited a normal gait (citations
 omitted). Furthermore, the medical records revealed that
 although her creatinine levels are elevated, they have
 been stable, she is taking no medication, and her
 hypertension has become moderately controlled with
 medication (citations omitted).

[AR 31.]

1
2 The ALJ's opinion contains specific and legitimate reasons for his
3 rejection of Dr. Ligons' opinion, based on the ALJ's detailed summary of the
4 record, which the Court confirms is supported by the cited evidence. Plaintiff,
5 therefore, fails to demonstrate reversible error.

6 **V. ORDER**

7 For all of the foregoing reasons, **IT IS ORDERED** that:

- 8 (1) the decision of the Commissioner of the Social Security Administration is
9 **AFFIRMED**;
10 (2) this action is **DISMISSED WITH PREJUDICE**; and
11 (3) Judgment is entered in favor of the Commissioner.

12 **IT IS HEREBY ORDERED.**

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14 DATED: May 23, 2016

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18 GAIL J. STANDISH
19 UNITED STATES MAGISTRATE JUDGE
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